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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,810	02/11/2004	Hongmin Chen	Optovia 7	5028

7590 04/14/2005  
Irwin Ostroff, Esquire  
OSTROFF & ASSOCIATES  
3 Lackawanna Boulevard  
Murray Hill, NJ 07974

EXAMINER

KALIVODA, CHRISTOPHER M

ART UNIT -PAPER NUMBER

2883

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/776,810

Applicant(s)

CHEN ET AL.

Examiner

Christopher M. Kalivoda

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/11/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure is objected to because it is too long and contains more than 150 words. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

- a. on page 1, line 4, page 5, line 14, page 17, line 6, and page 29, line 12, the serial number 10/776,808 should be filled in the blank spaces.
- b. on page 11, line 24, it is believed "path E" should be "path D" and on the last 2 lines, "path F" should be "path E".
- c. On page 12, line 19, it is believed splitter "22" should be splitter "21".
- d. On page 14, line 21, the word "couple" should be "coupled".

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification. Appropriate correction is required.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the delay lines in claims 2-5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3 and 7 respectively are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8,10 and 13, and 8, 29, 35 and 36 respectively of copending Application No. 10/776,808. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in application 10/776, 808 also recite the structural limitations of the reflector arrangement in the pending application. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Allowable Subject Matter***

Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 4, a review of prior art failed to make obvious, disclose or fairly suggest a reflector arrangement comprising a first and second multiplexer/demultiplexer arrangement in addition to the accompanying features of the claim.

Regarding claim 6, a review of prior art failed to make obvious, disclose or fairly suggest a reflector arrangement comprising a third power splitter with four input/output ports, the first and second input/output ports coupled to the third and fourth input/output ports respectively of the second power splitter and the third and fourth input/output ports coupled to the third and fourth input/output ports of the first power splitter in addition to the accompanying features of the claim.

Claims 8-11 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Regarding independent claim 8, a review of prior art failed to make obvious, disclose or fairly suggest a reflector arrangement comprising first second and third power splitters, each comprising four ports with the second, third and fourth ports of the first power splitter connected to the first port of the second power splitter and the third and fourth ports of the third power respectively and the third and fourth ports of the second power splitter coupled to the first and second ports of the third power splitter in addition to the accompanying features of the claim.

Claims 9-11 are allowed by virtue of their dependence upon claim 8.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,482,203 to Stowe et al. shows a fiber optic power divider. U.S. Patents 4,483,582 to Sheem and UK Patent Application GB 2 158 649 to Overbury both show cascading power dividers but each are silent with respect to the configurations claims. U.S. Patent 6,385,217 to Singh shows using a power splitter and feedback to control a laser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Kalivoda whose telephone number is (571) 272-2476. The examiner can normally be reached on Monday - Friday (8:30 - 5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
cmk



Frank G. Font  
Supervisory Patent Examiner  
Technology Center 2800